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April 11, 1997

OFFICE OF THE ATTORNEY GENERAL NATURAL RESOURCES SECTION

HAND DELIVERY

Honorable Joseph E. Meyer District Judge/ Denver District Court, Courtroom 7 1437 Bannock St. Denver, Colorado 80202

> Re: Sunnsyside Gold Corporation v. Colorado Water Quality Control Division Case No. 94CV5459

Dear Judge Meyer:

On May 8, 1996, Judge Rice entered a Consent Decree between the parties in this action which included a provision for amendments to the Consent Decree (paragraph 36) and a retention of jurisdiction provision (paragraph 37).

I am transmitting this Joint Petition for Amendment of Consent Decree signed by both the parties, requesting amendment of the Consent Decree as set forth. This is the original signature petition, together with a proposed Order. We are also filing with the Clerk of the District Court an original and one copy of this same Joint Petition for Amendment of Consent Decree. We would request the Court enter this Joint Petition.

If there are any questions or other requirements as to the mechanics of signatures, please feel free to contact either counsel.

Yours very truly,

DUFFORD & BROWN, P.C.

William C. Robb

WCR/np Enc.

c: Karen Kishbaugh, Esq.

-6486-1, 4/11/9-

DISTRICT COURT, CITY AND COUNTY OF DENVER, STATE OF COLORADO

Case No. 94 CV 5459

Courtroom 7

JOINT PETITION FOR AMENDMENT OF CONSENT DECREE

SUNNYSIDE GOLD CORPORATION,

Plaintiff,

v.

COLORADO WATER QUALITY CONTROL DIVISION OF THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT,

Defendant.

Sunnyside Gold Corporation ("SGC") and the Colorado Water Quality Control Division ("WQCD"), by their respective counsel, hereby jointly petition the Court for amendment of the Consent Decree entered in this matter on May 8, 1996, and in support of this joint petition, state as follows:

- 1. On May 8, 1996, this Court entered its Consent Decree resolving a declaratory judgment action between the parties. Paragraph 36 of the Consent Decree requires that the parties jointly petition the Court for any amendment to any portion of the Consent Decree or its appendices.
- 2. To accommodate certain concerns expressed by San Juan County and by the Colorado Historical Society, the parties have agreed that one of the mitigation projects included in the Consent Decree should be modified to preserve certain historical structures. To

accomplish that modification, the work plan for the Gold Prince Project has been modified. An additional project at the Ransom Portal has been added to the list of required mitigation projects in the Upper Animas River Basin.

- 3. The Mine Remediation Projects permit has been administratively amended by the WQCD, pursuant to statutory permit procedures, following public notice and a public comment period. No comments were received pursuant to notice.
- 4. The amended Mine Remediation Projects Permit No. CO-0044768, with accompanying work plans, was formally amended on December 6, 1996. The amendment is attached hereto and will become Appendix C-1 to the Consent Decree.

WHEREFORE, the parties jointly petition this Court for entry of an order amending the May 8, 1996 Consent Decree by incorporating the modification to the Gold Prince Project and the addition of the Ransom Portal Project as described in Appendix C-1.

Respectfully submitted this ______day of April, 1997.

DUFFORD & BROWN, P.C.

William C. Robb, #5898

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WATER QUALITY CONTROL DIVISION OF THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

J. David Holm, Director

Water Quality Control Division

Colorado Department of Public Health and

Environment

APPENDIX

C-1

STATE OF COLORADO

Roy Romer, Governor Patti Shwayder, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S. Denver, Colorado 80222-1530 Phone (303) 692-2000 Laboratory Building 4210 E. 11th Avenue Denver, Colorado 80220-3716 (303) 691-4700



December 6, 1996

Larry Perino
Sunnyside Gold Corporation
P.O. Box 177
Silverton, CO 81433

CERTIFIED MAIL NO: P 335 551 938

RE:

Amended Permit, Colorado Wastewater Discharge Permit System

Permit Number: CO-0044768, Sunnyside Gold Corporation San Juan County

Dear Mr. Perino:

Enclosed please find a copy of the amended pages of your existing permit which was issued under the Colorado Water Quality Control Act. Your discharge permit requires that specific actions be performed at designated times. You are legally obligated to comply with all terms and conditions of your permit including these changes. It is especially important to note the "EFFECTIVE DATE", not the "AMENDED DATE", located at the bottom right hand corner of each amended page of the permit. It is illegal to discharge per the new conditions until the effective date.

Please read the amended pages of the permit and if you have any questions contact this office at 692-3590.

Rost of Shulle

Robert 4. Shukle Chief

Permits and Enforcement Section Water Quality Control Division

Regional Council of Government

Local County Health Department

District Engineer, Field Support Section, WQCD

RJS/mlb

COLORADO DISCHARGE PERMIT SYSTEM (CDPS)

SUMMARY OF RATIONALE - AMENDMENT NO. 1

SUNNYSIDE GOLD CORPORATION

MINE REMEDIATION PROJECTS WITH

NO RESIDUAL DISCHARGE FOLLOWING PROJECT COMPLETION

CDPS PERMIT NUMBER CO-0044768, SAN JUAN COUNTY

I. TYPE OF PERMIT

Amendment

II. ADMINISTRATIVE INFORMATION

A. Facility Type:

Mine Dewatering and Milling With No Discharge

Fee Category.

Annual Fee:

Category 03, Subcategory 4

Category Flow Range:

No Discharge (At Completion of Remedial Activity)

\$1.519

B. SIC Code:

1041

C. Party Performing Remediation:

Larry Perino, Reclamation Manager

Sunnyside Gold Corporation

P.O. Box 177

Silverton, CO 81433

(303) 387-5533

E. Facility Location:

The mine sites that will be remediated are located in the upper Animas River basin, and are associated with a consent agreement between the permittee and the Water Quality Control Division that is related to the plugging of the American Tunnel mine portal. The permittee has submitted Mine Remediation Plans (MRP's) for each site that has been identified to-date, with detailed location information. Any additional sites identified in the future will be described in similar MRP's that will be submitted to the Water Quality Control Division.

F. Discharge Point(s):

The receiving streams and specific locations associated with discharges from individual sites are described in the MRP's that have been, or will be, submitted for each waste site.

III. PURPOSE OF AMENDMENT

The purpose of this amendment is to change the description of one mine remediation site, and to add one site.

a) Changes to the Gold Prince Mill Tailings and Waste Dump Remediation Plan

During the historical review process for San Juan county and the U.S. Corps of Engineers permits, the potential contribution of portions of the remediation site to the cultural and historic aspects of San Juan County was recognized, as was the potential for work plan implementation to eliminate these historical attributes. After archeological recordation, the State Historic Preservation Officer (SHPO) concluded that the site is significant and eligible for the National Register of Historic Places. However, the SHPO further stated that a large portion of the site remediation could be implemented as planned.

COLORADO DEPARTMEST OF HEALTH AND ENVIRONMENT, Water Quality Control Division Rationale Amendment No. 1 - Page 2, Permit No. CO-0044768

The amended project description provides a compromise between remediation of the water quality aspects and the preservation of the cultural and historical aspects of the site. The Division believes that such a compromise is appropriate in this case. The worst water quality aspects are controlled and the best cultural and historical aspects are preserved.

An amended project description and site map have been incorporated in the permit through revision of pages GP-3 and GP-6

b) Addition of the Ransom Portal Mitigation Project

Plugging of the Ransom portal has been included as an additional mitigation project. The Ransom adit is located in Eureka Gulch above the old Eureka mill, just off the road to Sunnyside Basin. The portal will be opened and investigated and if an acceptable location can be found in the portal. SGC will design and install a hydraulic seal. The work plan for this project is included as attachment RP, and is 8 pages long, including maps.

Rich Horstmann October 17, 1996

IV CHANGES MADE AFTER PUBLIC NOTICE

No comments were received, and no changes were made.

Rich Horstmann December 3, 1996

Permit No.: CO-0044768

PART I

A. TERMS AND CONDITIONS

1. Authorization to Discharge Beginning no later than the effective date of this general permit and lasting through May 31, 2001, the permittee is authorized to discharge from mine waste remediation projects with no residual discharge following project completion. The specific locations and outfalls associated with these projects are described in the attachments to this permit, according to the following listing:

Mine Remediation Project	Attachment Abbreviation	Number of Pages
American Tunnel Mine Waste Dump	ΑT	8
Boulder Creek Tailings Project	ВС	7
Columbus Mine Portals Mine Waste Dumps	СМ	8
Surface Mill Tailings at Eureka	ET	7
Gold Prince Mill Tailings	GP	10
Longfellow Koehler Mine Waste Project	LK	14
London Mine Portals Waste Dumps	LM	8
Pride of the West Tailings	PW	8
Ransom Portal	RP	8
Sunnyside Mine Pool Mitigation - Alkaline Solution Injection	SP	6

2. Minc Remediation Plan (MRP) - Definition, Development

A Mine Remediation Plan (MRP) has been developed for each of the sites listed above. Similar plans shall be developed for any additional site that is later desired by the permittee to be covered by this permit. The MRP shall be prepared in accordance with good engineering practices. (The plan need not be completed by a registered engineer.) The plan shall identify potential sources of pollution (including sediment) which may reasonably be expected to affect the quality of discharges associated with the mining operation. In addition, the plan shall describe and ensure the implementation of best management practices (BMPs) which will be used to reduce the pollutants in discharges associated with the inactive mining operation. The MRP's that have already been submitted include, and any future ones will have to include, the following items, at a minimum:

a. <u>Description of Mining Activities</u> To the extent that the permittee is knowledgeable, the plan shall provide a narrative description of the mining and associated activities that took place at the site. The narrative description shall report the approximate dates of operation, the total acreage within the mine site and an estimate of the number of acres of disturbed area. A general description of the location of the mining site relative to major transportation routes and communities shall also be provided.

Amended DEC 6 - 1996 Effective FEB 1 - 1997

Attachment GP

Page No. GP-3

Permit No. CO-0044768

Description of Project

The surface tailings and waste rock will be removed and consolidated and the pH adjusted to near neutral by addition of lime or limestone. A suitable relocation area for tailings and waste rock will be built onsite. The onsite relocation area will have a diversion trench established around it to isolate the material. All surface soils will be salvaged and used for final capping and the physical cap thickness will depend on the amount of soil available for salvage, 14-16" minimum is preferable. Construction of the relocation site will conform as near as possible to the site topography with maximum slope ratios of 2:1. The relocation area will be located as far away from streams as practical. Once all material is consolidated, the area will be capped with the salvaged soils, amendments added, seeded and mulched. All surface disturbances will be reseeded. It is possible that a 404 permit from the Army Corps of Engineers may need to be obtained before performing this work. This plan is also subject to notification requirements, for disturbance of Historical Mining Sites, to the board of the San Juan County Commissioners.

At the portal, the closure bulkhead will be reinforced with concrete and grouted to prevent water from flowing out the portal. The tunnel would then no longer be a drain for the near surface fractures in the area. Surface disturbances will be treated with soil amendments and reseeded.

The property has some building foundations on it and may be deemed as historic. SGC will preserve these structures provided that the mine waste can be economically removed without major damage or demolition of structures.

Work Plan

- Two bulkheads will be placed within the Gold Prince No. 1 Level portal. These bulkheads will turn the flow of mine discharge water to the Sunnyside Mine Pool and return the near surface fracture flow water back to a flow path within the surface fracture system.
- 2. Utilizing the existing County Road above the mine waste dumps, a run-on diversion ditch will be constructed to divert surface flows around the site.
- 3. The scattered waste piles W-1 through W-6 will be consolidated into the waste piles W-7 and W-8 (see map). The pH will be adjusted to near neutral by addition of lime or limestone.
- 4 Tailing piles T-1 through T-3 will be entombed (buried with a liner) within the consolidated waste piles W-7 and W-8
- 5. The top surface of the consolidated material will be capped with over burden material. For historical accommodation, the slopes of the consolidated piles will be left uncapped and steep, resembling a historical mine dump. These slopes will have a mostly non-reactive waste rock cover.
- 6. Overburden cover will be obtained from the area under the enlarged W-8 and County Road realignment.
- 7. Areas where material was moved will be amended, seeded and fertilized.
- 8. Streamflow will be diverted from crossing the Hansen Mill waste area.

Analysis

Consolidation, improvement of pH conditions and isolation from snowmelt and rainwater is a Best Management Practice will prevent waters from coming into contact with the tailings and mine waste rock. Preventing water from exiting the mine portal will decrease the area drained by the adit and let the near surface water return to its natural flow paths. This project may help in reducing dissolved zinc as well as other dissolved metals in the Upper Animas Basin.

Monitoring

Monitoring points will be upstream and downstream at this project site as well as flows from the adits and dumps. Monitoring will start prior to remediation work and continue until two years after the project is completed. Monitoring will occur four times yearly with at least one time at high flow and at least two at low flow and will be submitted by the 28th day of the month following receipt of analysis as well as with the quarterly reports. All samples taken will be analyzed for dissolved metals Zn, Fe. Al, Cd, and CU, total sulfate, field pH as well as flow measurements.

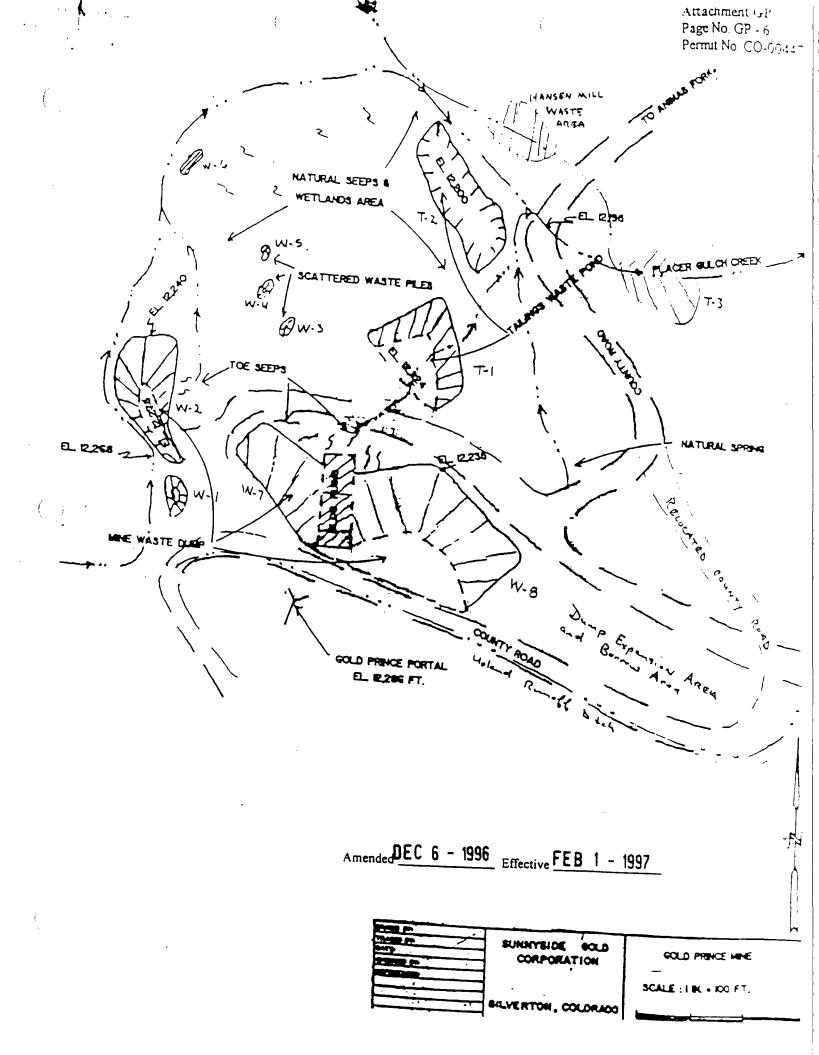
Contingency Plans

Removal and isolation of tailings and mine waste is planned onsite. Should this not be realistic due to groundwater conditions. SGC will haul the material to Tailings Pond #4 at the Mayflower Mill. Under SGC's MLR permit M-77-378 this material can be consolidated into Tailings Pond #4

3udget

SGC will fund this program.

Amended DEC 6 - 1005 Effective FEB-1 - 1997



Remediation Plan:

Ransom Mine Portal

Remediating Party:

Sunnyside Gold Corporation

P.O. Box 177

Silverton, CO 81433

contact

Larry Perino

Reclamation Manager

1. Description of Mining Activities

Physical Description of Conditions

There is one portal which appears to discharge regularly or continuously. Water flowing from this portal carries dissolved metals. The regional geology is volcanic rocks with narrow veins containing base metals (Fe, Pb, Cu and Zn) which this tunnel was driven to intersect. There are no major underground workings associated with this tunnel and it is not connected physically to any other mine workings. Sampling of waters from the portal indicates it may contribute to the dissolved metal loading in the South Fork of the Animas River.

General Description of the Mining Site

The history, including dates of operation, of this property is not known by Sunnyside Gold Corporation but it is believed to have been briefly operated around 1970 for exploration. The original tunnel was probably driven in the 1920's. The portal is closed due to collapse of the surface timber sets.

Identification of Lands

The Ransom Adit is located in Eureka Gulch above the old Eureka Mill just off the road to Sunnyside Basin, San Juan County Colorado. See attached location and site maps.

Identification of the Waters of the United States Potentially Affected

South Fork of the Animas River above the confluence with the Animas River.

2. Site Map

Attached

3.Stormwater Management Controls

Sunnyside will install sediment catchments as needed. The majority of this project's activity will be underground.

Attachment RP
Page No. RP-2
Permit No. CO-0044768

4. Inspection and Record Keeping

The Manager or a member of the Technical Services Department will inspect this project on a regular basis while the work is being done and periodically until the permit is released. Quarterly reports with photographs will be submitted to both the Water Quality Control Division and the Colorado Division of Minerals and Geology. Photographs of the property prior to remediation will be submitted with the first quarterly report.

Monitoring

Additional monitoring for this project is not contemplated. SGC monitors the South Fork of the Animas River at the mouth of Eureka Gulch during low flow twice annually as a MLR Permit requirement. This monitoring station is just below the point where portal flows would enter the South Fork of the Animas. SGC will maintain this monitoring station until released from this requirement.

Reporting

SGC will submit a seal design prior to starting construction of the seal. This is not a long term project. Therefore, a final report will be submitted once all reclamation activities are complete as well as monthly progress reports while the project is active. Reports will be sent to the Division of Minerals and Geology as well as the Water Quality Control Division. Results from samples taken at the mouth of Eureka Gulch from the South Fork of the Animas will be submitted with the monthly report due on the 28th day of the month following receipt of results.

5. Mine Remediation Plan

Legal Right to Enter and Conduct Activities

Sunnyside is the owner of this property.

Remedial Goals and Objectives

Reduction of metals loading to the South Fork of the Animas River by removing the artificial drain created by the adit and reducing the exposure of metal bearing rock to oxygen and any chemical reactions this exposure may precipitate.

Site Loading Estimate

For all of the remediation projects, and based on limited information, the site loading estimate for each project site was based on the following methodology:

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Attachment RP Page No. RP-3 Permit No. CO-0044768

Adits-

Using available data, zinc loading was calculated on the average flow and average zinc values

Mine Waste Dumps and Tailings Piles-

Site composite soil samples were tested using a water bath extraction. This test consists of exposing a 1.1 ratio by weight of material to deionized water. The mixture is briefly mixed then allowed to set for 30 minutes. The sample was then filtered (0.45 micron) and analyzed for metals.

Annualized loading was calculated using rainfall data (proportionally adjusted for site elevation between the Silverton and Red Mountain weather stations), exposed area of waste dump or tailings site and loading based on 1:1 water bath test results. For comparison to adit flow loading projects, the annualized loading was converted to an average daily loading.

Based on these assumptions and procedures. Sunnyside estimates that the average daily loading for this site may be as much as 2.6 pounds per day. Sunnyside is under no obligation to defend these estimates and they should only be used as an estimate. Sunnyside does not represent that its mitigation project at this site will remove any specific percentage of metals loading from this site; the loading estimate contained herein does not form the basis of an enforceable permit obligation.

Description of Project

The portal will be opened and studied for the placement of hydraulic seals. In order for a hydraulic seal to be placed, SGC feels that a site meeting the following conditions will need to be found.

- 1) Location far enough underground to avoid the near surface fractures and joints caused by weathering.
- 2) Adequate rock compressive strength for structural stability.
- 3) A length of tunnel with minimal faulting or other geologic features.
- 4) Adequate ground cover over the potential site to resist the hydrostatic forces from the potential maximum head.

If an acceptable location can be found, SGC will design and install a hydraulic seal. After sealing is complete, the seal will be contact grouted and the diversion pipe, if necessary for construction, grouted. Any near surface fracture flows will be diverted to avoid contact with waste material and the portal closed. See attached paper on hydraulic seals.

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Attachment RP Page No. RP-4 Permit No. CO-0044768

Work Plan

- 1) Build catchments for potential adit releases.
- 2) Open and evaluate adit for hydraulic seal.
- 2) Design and install hydraulic seal.
- 3) Grout seal-rock contact and bypass pipe.
- 4) Portal closure.

Analysis

The hydraulic seal proposed for the Ransom adit will reduce the unsaturated zone by removing the drain. This will result in minimizing the oxygen available for reaction with the sulfide materials in the area. The hydrological conditions will be restored to an approximation of pre-mining conditions and should improve the water quality in the area.

Contingency Plans

Should the concept of hydraulic seals not be practical after engineering studies. SGC will consult with the Division of Minerals and Geology for other possible solutions. If an acceptable system can be arrived at, SGC will install such a system.

Monitoring

Additional monitoring for this project is not contemplated. SGC monitors the South Fork of the Animas River at the mouth of Eureka Gulch during low flow twice annually as a MLR Permit requirement. This monitoring station is just below the point where portal flows would enter the South Fork of the Animas. SGC will maintain this monitoring station until released from this requirement.

Budget

SGC will fund this project.

Description of Land Use

This remediation work plan is intended to use Best Management Practices on the site to conform with surrounding land use policies for;

- 1) land stabilization, limited rangeland and wildlife habitat to approximately resemble a mountain park ecosystem consistent with bordering undisturbed areas.
- 2) the conversion of facilities, usable for purposes for other than mining, to alternate uses and preserve facilities of historic interest.

Attachment RP Page No. RP-5 Permit No. CO-0044768

Consistency with Other Plans

There are no other remediation plans for this property.

Submitted by Sunnyside Gold Corporation.

Larry Perino

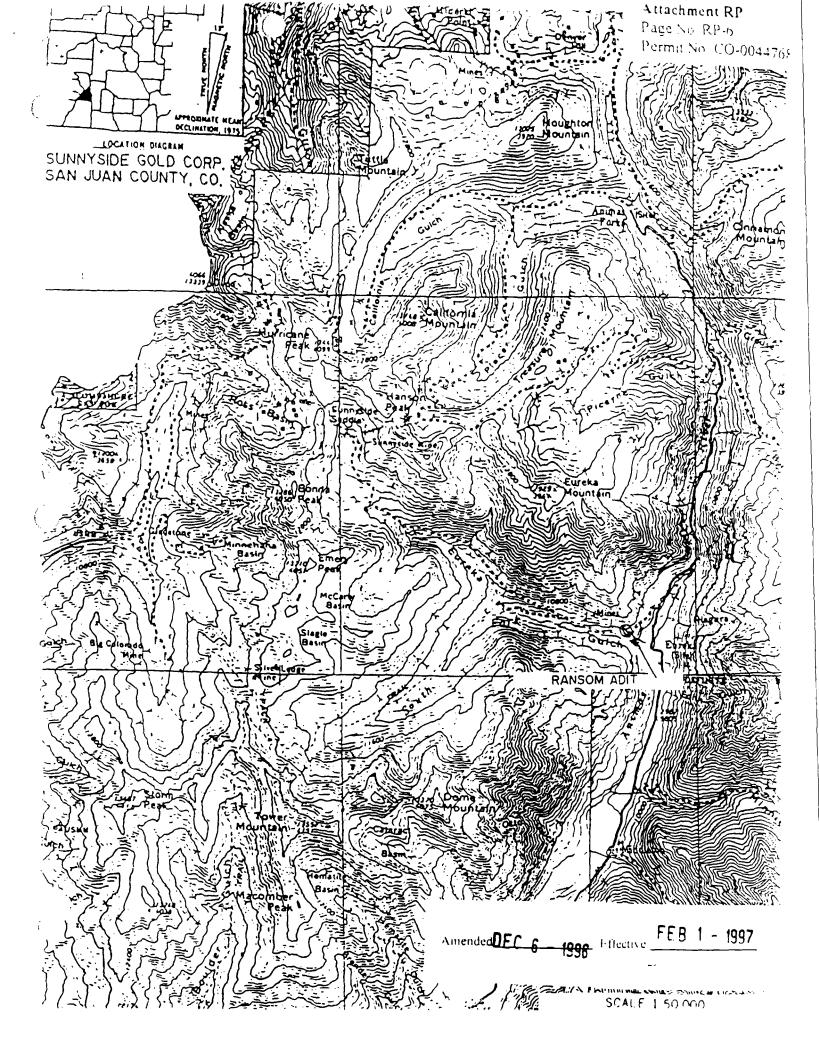
Reclamation Manager

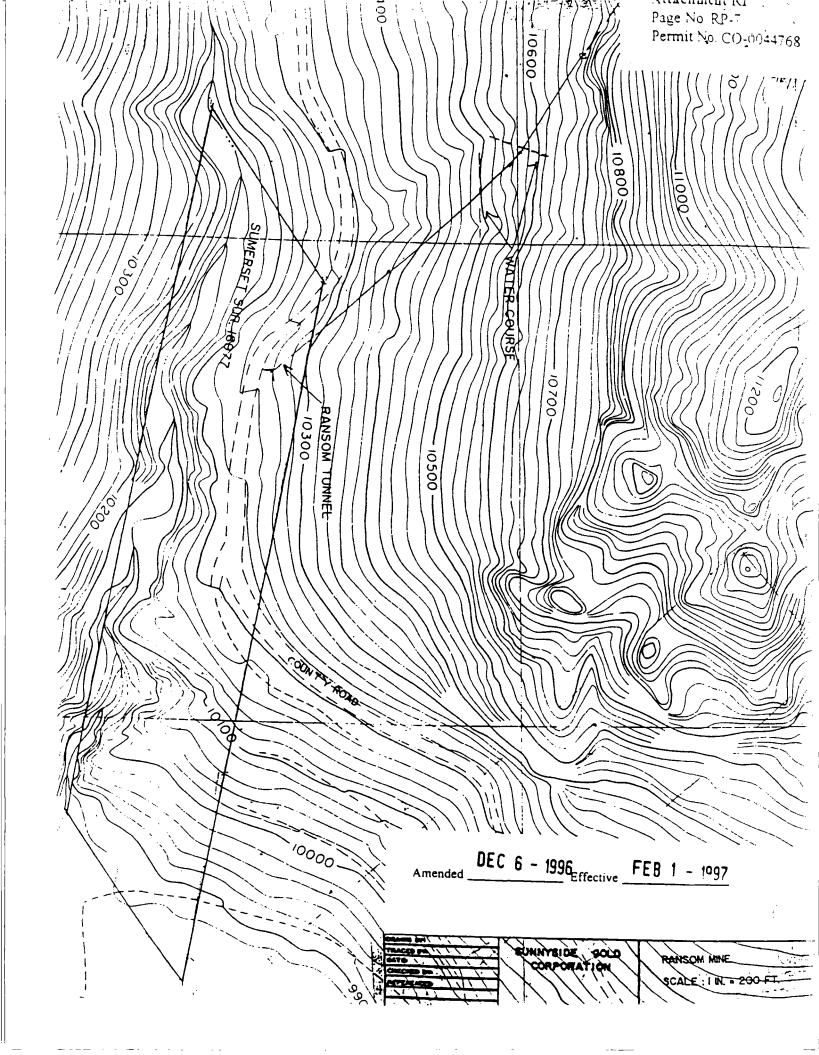
Attachments:

Location Map Site Map

Water Characterization

Tunnel Bulkheads for Acid Mine Drainage





SITE CHARACTERIZATION DATA SUMMARY

SITE.

RANSOM ADIT

MEDIA

WATER

			Sample Date	Data	рН	Al	Cd	Cu	Fe	Mn	Pb	Zn	Comments
Sample F	ilt./Unfilt.	<u>GPM</u>		Source	8.u.	mg/I	mg/l	mg/1	mg/l	mō/I	mg/i	mg/l	
Ransom Adit	Filt	80	30-Jul-96	SGC	6 89	<0.05	0 004	0 003	0 16	3 31	0 006	2 75	

Amended EC 6 - 1996 Effective

FE8 1097

Attachment RP
Page No. RP-8
Permit No. CO-0044768

DISTRICT COURT, CITY AND COUNTY OF DENVER, STATE OF COLORADO Case No. 94 CV 5459 Courtroom 7 ORDER AMENDING CONSENT DECREE SUNNYSIDE GOLD CORPORATION, Plaintiff, v. COLORADO WATER QUALITY CONTROL DIVISION OF THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, Defendant. Pursuant to joint petition of the parties hereto, the Consent Decree previously entered by this Court on May 8, 1996 is hereby amended as set forth in the joint petition. Appendix C-1 shall become a formal part of Appendix C to that Consent Decree, effective December 6, 1996. BY THE COURT: District Court Judge

DISTRICT COURT, CITY AND COUNTY OF DENVER, STATE OF COLORADO Case No. 94 CV 5459 Courtroom 7 ORDER AMENDING CONSENT DECREE SUNNYSIDE GOLD CORPORATION, Plaintiff, v. COLORADO WATER QUALITY CONTROL DIVISION OF THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT. Defendant. Pursuant to joint petition of the parties hereto, the Consent Decree previously entered by this Court on May 8, 1996 is hereby amended as set forth in the joint petition. Appendix C-1 shall become a formal part of Appendix C to that Consent Decree, effective December 6, 1996. Dated CT. RM. 7 APR 1 4 1997 BY THE COURT:

District Court Judge